

UNITED STATES OF AMERICA :
:
v. : **CRIMINAL NO. 99-152**
RONALD BRASWELL

AND NOW, this day of March, 1999, after an evidentiary hearing and argument of counsel for the government and the defendant, the Court FINDS THAT:

This case is appropriate for detention under Title 18, United States Code, Section 3142(f) because:

A. Probable Cause And The Evidence In This Case

1. There is probable cause to believe that the defendant has violated 21 U.S.C. §841 (a) and 18 U.S.C. § 922(g) as charged by indictment on March 23, 1999. The evidence in this case is strong and consists of eye witness testimony of Philadelphia police officers who will testify that on December 10, 1998 the defendant made two sales of heroin to two separate buyers within a short period of time from an abandoned property at 922 W. Seltzer Street. Both buyers were apprehended and packets of heroin marked “Murder One” were recovered from each buyer. A short while later, when the police approached to arrest the defendant, he fled into this 922 W. Seltzer Street. Inside this location, the defendant was apprehended in the front room of this property; no other persons were present. Twenty-one packets of heroin marked “Murder One” together with six more stamped “Life or Death” or “Games of Death” were confiscated. In addition, the heroin was commingled with 42 packets of crack and one ziplock chunk of crack in a Pringles can together with \$547.00 in United States Currency. The net weight of the crack was 3.544 grams and the projected net weight of the heroin was less than two grams. In addition, from this same area, police recovered a Colt. 32 caliber revolver, model police positive, serial #80103 loaded with three (3) live rounds. Two hundred dollars was recovered from the defendant’s person. The defendant supplied an address of 1123 Nevada Street, Philadelphia, Pa. 19133.

On March 25, 1999 the defendant was arrested inside of 922 W. Seltzer Street where he had been observed making sales of controlled narcotic substances on December 10, 1998. However, on March 25, 1999, he provided an address of 2246 N. 12th Street,

Philadelphia, Pa. 19133 and represented that he had been living at that residence for the last six months which would date back to September of 1998. Clearly, the defendant misrepresented his address either at the time of his arrest in December of 1998 or on March 25, 1999.

Further, at the time of the defendant's arrest on March 25, 1999 the defendant admitted to abusing heroin for the last 4 years, cocaine for a "long time", marijuana occasionally, benzodiazepines regularly, and finally, cognac, every other day. On March 25, 1999 his urine tested positive for heroin, cocaine, and marijuana. He was so high that his arraignment could not proceed as he was falling asleep while waiting for his matter to be heard before the presiding judge. The government's motion to ascertain the defendant's competency to proceed under 18 U.S.C. §4241 was granted given the defendant's drug induced condition which precluded him from comprehending the nature of the legal proceeding.

2. The strength and nature of the case against the defendant and the corresponding probability that the defendant will be incarcerated for a significant period of time, establishes his danger to the community and increases the high risk that the defendant will not appear as required by the Court.

B. Maximum Penalties

1. The defendant is charged with one count of possession of a firearm by a convicted felon which exposes the defendant to a total maximum penalty of life

imprisonment as an Armed Career Criminal and a \$250,000 fine.

2. The defendant faces a mandatory minimum period of 15 years in prison due to his status as an armed career criminal on this count alone.

3. The defendant is charged with an additional two counts of possession with intent to distribute a controlled substance for the crack and heroin confiscated.

The drug counts expose the defendant to a maximum of 30 years imprisonment and a fine of \$2,000,000 because he has a prior felony drug conviction and the instant offense involves less than five grams of cocaine.

4. Under the Sentencing Guidelines, the government estimates conservatively that the defendant faces a prison term of 262-327 months without parole.

5. Accordingly, the defendant has a substantial incentive to flee.

C. Prior Criminal Record

1. The defendant has a 1977 Robbery conviction for which he received a three year probationary sentence. This is the defendant's first qualifying conviction under the Armed Career Criminal statute. See, 18 U.S.C. §924(e).

2. The defendant was convicted of an ungraded misdemeanor drug offense and an M1 firearms conviction arising from a 1987 arrest. He was sentenced to two years probation in 1988.

3. The defendant has a felony drug conviction in 1996 which stemmed from a 1994 drug arrest. He received a sentence of less than six months to no more than twelve months. This conviction counts as two points under the Sentencing Guidelines and is a

second qualifying conviction for purposes of being classified as an Armed Career Criminal.

4. The defendant has a felony drug conviction in 1996 which arose from a 1995 drug arrest. The defendant received a sentence of less than six months to no more than twelve months. This conviction counts as two points under the Sentencing Guidelines and is a third qualifying conviction for purposes of being classified as an Armed Career Criminal.

At the time of the defendant's arrest in this matter he was on "wanted cards" status by the Philadelphia Adult Probation/Parole Department which is supervising his two drug cases. The defendant's status of being an active parolee adds two points to his Sentencing Guidelines Criminal History point total.

D. Ties To The Community

1. While the defendant arguably has some ties to the community, the legislative history of the Comprehensive Crime Control Act of 1983 indicates that Congress found that community or family ties do not and should not weigh heavily in the risk of flight analysis. See Sen. Comm. on Judiciary, Comprehensive Crime Control Act of 1983, S. Rep. No. 98-225, 98th Cong., 1st Sess. 24, 25 (1983).

E. History and Character of the Defendant

The defendant is unemployed and cannot even recall when he was last employed. He does not provide financial support to anyone. He has a lengthy history of polysubstance abuse. He admits to using heroin, cocaine, marijuana, benzodiazepines, and

alcohol, on a regular basis. His urine tested positive for heroin, cocaine and marijuana when he was arrested on March 25, 1999.

In addition, the defendant has two prior failures to appear which were determined to be willful ones. Further, he was on “wanted card” status by the Philadelphia Adult Probation/Parole Department at the time of the instant offense. Clearly, when the consequences were far less severe than those he faces in this matter, the defendant chose to violate his condition of release from custody whether it was before or after conviction. Now, he is a far greater risk of flight given the severity of the penalty he faces if he is convicted of these charges.

F. Detention.

Because the defendant is being charged with two counts of 21 U.S.C. §841(a), with a maximum penalty of thirty (30) years imprisonment, there is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community. See, 18 U.S.C. §3142(e).

III. CONCLUSION

Nothing short of 24-hour custody and supervision can ensure the appearance of this defendant and the safety of the community. The conditions of release enumerated in the detention statute at Section 3142(f) would serve only to inform the Court, after the fact, that the defendant has fled or resumed his criminal career.

Therefore, it is ORDERED that:

(1) The defendant be committed to the custody of the United States Marshall for confinement;

(2) The defendant be afforded reasonable opportunity for private consultation with counsel; and

(3) On order of a Court of the United States, or on request of an attorney of the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

BY THE COURT:

**THOMAS J. REUTER
UNITED STATES MAGISTRATE JUDGE
IN THE UNITED STATES DISTRICT COURT**

